IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 367 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 15/02/2005 in WP NO : 2585 OF 2005 on the file of the High Court.)

Between:

Kolli Apparao, S/o. Late Atchanna,
R/o. Revallapalem, Madhurawada Vill, Visakhapatnam District.

..... APPELLANT

AND

1 The Mandal Revenue Officer, Visakhapatnam Rural, Visakhapatnam.
2 Govt of A.P., rep. by The District Collector, Visakhapatnam District. Visakhapatnam.
3 Visakhapatnam Urban Development Authority, rep. by its Vice

Chairman, Vuda Complex, Visakhapatnam.

.....RESPONDENTS

Counsel for the Appellant:MR.K.SARVA BHOUMA RAO

Counsel for the Respondent NoS 1 &2 : GP FOR ASSIGNMENT

Counsel for the Respondent No.3. : Ms.Preeti Reddy

The Court made the following :

ORAL ORDER: (Per the Hon'ble the Chief Justice)

Learned single Judge disposed of the writ petition itself at the admission stage after holding that the petitioner had in fact sought for a declaration of his title and a consequential injunction restraining the respondents from interfering with his possession of the property and that he must file a civil suit and seek injunction and therefore there was no ground to admit the writ petition. Parties were directed to maintain status quo for one week.

As a matter of fact, the writ petitioner specifically alleged in the writ petition that the land scheduled in the petition was assigned to him and on the basis of D form patta he was cultivating and in possession of the same and his possession was duly recorded upto date in revenue records. In support of his case he appended along with the petition a copy of D form patta and extract of 10(1) adangal and No.3 accounts and submits that he is in actual possession of the property. The further allegation made in the petition was that on 10.2.2005 the 1st respondent along with certain other officials came to his land and asked him to vacate the land since it was decided to give the land in question and several other lands to the 4th respondent-VUDA. It is also stated that they threatened him that if he does not vacate the land, police force will be used to evict him. Thus, on the basis of the averments made in the petition, the petitioner sought the relief in the petition that since he was in lawful possession of the property, the respondents cannot disturb his possession and evict

him otherwise than in accordance with law and that respondents have to initiate appropriate proceedings either under Land Acquisition Act to acquire the land or in case if they have any right to seek petitioner's eviction, they can do so only in accordance with law. In these circumstances, the learned single Judge was not justified in dismissing the writ petition directing the petitioner-appellant to seek remedy in a civil Court. The learned single Judge ought to have issued directions to respondents not to disturb the possession of the petitioner except in accordance with law.

Accordingly, we allow the appeal, set aside the impugned order and direct the respondents that the petitioner's possession shall not be disturbed and petitioner will not be evicted from the land except by following due process of law.

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DEVINDER GUPTA, CJ

Dated 04..03..2005

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B.SESHASAYANA REDDY,J

Note: Wire at party's cost

(B/o)

msv.

To

1 The Mandal Revenue Officer, Visakhapatnam Rural, Visakhapatnam
2 The District Collector, Visakhapatnam

3 The Vice Chairman, Visakhaptnam Urban Development Authority,

Vuda Complex,

Visakhapatnam

4 2 CCs to G.P for Assignment, High court of A.P. Hyd. (OUT)

5 2 CD copies.